

AMENDED IN ASSEMBLY APRIL 23, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1707

**Introduced by Committee on Labor and Employment (Swanson
(Chair), DeSaulnier, Laird, Leno, and Ruskin)**

February 28, 2007

An act to amend Section 1198.5 of the Labor Code, relating to employment records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1707, as amended, Committee on Labor and Employment. Private employment.

Under existing law, employees have a right to inspect employment records.

This bill would require employers to maintain employment records for a specified time and to provide inspection and copies within a specified time to current and former employees or their representatives; ~~and. The bill would impose sanctions~~ *authorize those employees to recover a \$750 penalty from an employer for failure to do so and to bring an action to obtain compliance.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1198.5 of the Labor Code is amended to
- 2 read:
- 3 1198.5. (a) Every current and former employee, and his or her
- 4 representative, has the right to inspect and receive copies of the

1 personnel records that the employer maintains relating to the
2 employee's performance or to any grievance concerning the
3 employee.

4 (b) The employer shall make the contents of those personnel
5 records available to the current or former employee, or his or her
6 representative, at reasonable intervals and at reasonable times, but
7 not later than 21 calendar days from the date of a written or oral
8 request for these records. Upon a request from a current or former
9 employee, or his or her representative, the employer shall also
10 provide copies of the personnel records, at a charge not to exceed
11 the actual cost of reproduction. Except as provided in paragraph
12 (4) of subdivision (c), the employer is not required to make those
13 personnel records available at a time when the employee is actually
14 required to render service to the employer, if the requester is the
15 employee.

16 (c) The employer shall do the following:

17 ~~(1) Keep a copy of each current employee's personnel records~~
18 ~~at the place where the employee reports to work.~~

19 ~~(2) Maintain~~

20 *(1) With regard to all employees, maintain a copy of each*
21 *employee's personnel records for a period of not less than four*
22 *years after termination of employment.*

23 ~~(3) Make~~

24 *(2) With regard to current employees, make a current employee's*
25 *personnel records available at the place where the employee reports*
26 *to work within a reasonable period of time following a request by*
27 *an employee or his or her representative for inspection or for a*
28 *copy of the records, but not later than 21 calendar days from the*
29 *date of a request.*

30 ~~(4) Permit a current employee or his or her representative to~~
31 ~~inspect the personnel records at the location where the employer~~
32 ~~stores the personnel records, with no loss of compensation to the~~
33 ~~employee.~~

34 ~~(5) Make~~

35 *(3) With regard to former employees, make a former employee's*
36 *personnel records available for inspection at the location where*
37 *the employer stores the records, or, at the request of the former*
38 *employee or his or her representative, provide a copy of the*
39 *personnel records to the former employee or his or her*

1 representative, not later than 21 calendar days from the date of the
2 request.

3 (d) The requirements of this section do not apply to:

4 (1) Records relating to the investigation of a possible criminal
5 offense.

6 (2) Letters of reference.

7 (3) Ratings, reports, or records that were:

8 (A) Obtained prior to the employee's employment.

9 (B) Prepared by identifiable examination committee members.

10 (C) Obtained in connection with a promotional examination.

11 (4) Employees who are subject to the Public Safety Officers
12 Procedural Bill of Rights (Chapter 9.7 (commencing with Section
13 3300) of Division 4 of Title 1 of the Government Code).

14 (5) Employees of agencies subject to the Information Practices
15 Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4
16 of Division 3 of the Civil Code).

17 (e) The Labor Commissioner may adopt regulations that
18 determine the reasonable times and reasonable intervals for the
19 inspection of records maintained by an employer that is not a public
20 agency.

21 (f) If a public agency has established an independent employee
22 relations board or commission, an employee shall first seek relief
23 regarding any matter or dispute relating to this section from that
24 board or commission before pursuing any available judicial
25 remedy.

26 (g) In enacting this section, it is the intent of the Legislature to
27 establish minimum standards for the inspection of personnel
28 records by employees. Nothing in this section shall be construed
29 to prevent the establishment of additional rules for the inspection
30 of personnel records that are established as the result of agreements
31 between an employer and a recognized employee organization.

32 (h) If an employer fails to permit a current or former employee
33 or his or her representative to inspect or copy personnel records
34 within the times specified in this section, the current or former
35 employee or the Labor Commissioner may recover a penalty of
36 seven hundred fifty dollars (\$750) from the employer.

- 1 (i) A current or former employee may also bring an action for
- 2 injunctive relief to obtain compliance with this section, and may
- 3 also recover costs and reasonable attorney's fees in such an action.

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